

IMPACT

PUBLIC DEFENSE MATTERS

2015 annual report

Orleans Public Defenders



from the chief

“You have the right to an attorney...if you can’t afford an attorney, one will be appointed to you.” The right to counsel is enshrined in the 6th Amendment to the U.S. Constitution and guaranteed to each of us by the landmark case, *Gideon v. Wainwright*. Thanks to the popularization of Miranda rights through shows like *Law and Order* and others, most recognize that profound right. What is now slowly coming to the general public’s understanding is just how much that right is at risk.

Public defense in New Orleans, across Louisiana and throughout our country is in crisis. 2015 saw a continuation of yearly funding shortages and cuts. Years of chronic underfunding due to Louisiana’s user-pay criminal justice system – a system where public defender budgets depend on traffic fines and other fees charged to their poor clients – gave way to the worst public defense crisis since Hurricane Katrina. The shortfalls prompted cuts and service restrictions for the Orleans Public Defenders (OPD).

Across the country, and especially in Louisiana, public defense remains an unequal participant in the ever-growing criminal justice system. More and more poor peoples’ right to an attorney in criminal proceedings is becoming more rhetorical than real.

The federal judge in *Wilbur v. Mt. Vernon*, put it this way:

The notes of freedom and liberty that emerged from Gideon’s trumpet a half a century ago cannot survive if that trumpet is muted and dented by harsh fiscal measures that reduce the promise to a hollow shell of a hallowed right.

The need for criminal justice reform in New Orleans and Louisiana persists. Louisiana still incarcerates more of its citizens than any other state in the country, and New Orleans incarcerates more than any other city. Public defense cannot be overlooked as decision makers seek to reverse decades of over-incarceration. Indeed, you cannot solve the injustices of our criminal system without providing access to justice: well-resourced and capable public defenders.

Funding for public defense in New Orleans (and throughout Louisiana) is inadequate, unreliable and unstable. Louisiana’s user-pay funding scheme for public defense only deepens and exacerbates the disparities, inequality and injustice of Louisiana’s criminal system. In New Orleans, citizens appropriated nearly \$200 million dollars in 2015 to arrest, prosecute, convict

and incarcerate its citizens, but only \$1.5 million to protect innocence and insure the Constitution was not violated.

In spite of these daunting challenges and the manifest disparities, OPD continues to positively impact the lives of our clients and our community. This report highlights the amazing work of our staff under the toughest of circumstances and facing shocking disparities. OPD believes justice for people who can't afford attorneys should look just like the justice available to those who can. The work of OPD is an example of the truth behind the quote by cultural anthropologist, Margaret Mead: "Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has."

"The need for criminal justice reform in New Orleans and Louisiana persists.... Public defense cannot be overlooked as decision makers seek to reverse decades of over-incarceration."



**- Derwyn D. Bunton
Chief Defender, Orleans Public Defenders**

2005

Hurricane Katrina causes a complete collapse of the criminal justice system in New Orleans and exposes the failure and inadequacy of public defense.

2007

Act 307 reforms public defense in Louisiana, providing all defendants with a right to effective counsel.

OPD restructures as full-fledged client-centered, community-oriented defense practice representing 85% of all defendants in New Orleans.

2012

OPD institutes first restriction of services.

OPD sues Traffic Court for failure to pay millions in owed fines and fees.

Local appropriation

2010

OPD recognized by the Southern Center for Human Rights with the Frederick Douglass Human Rights Award for outstanding contributions to the protection of human rights in the criminal justice system.

2009

Local funding support given to OPD for first time.

anatomy of a crisis

on reduced by 2/3.

Unreliable, unstable and inadequate funding send OPD into crisis with massive layoffs and hundreds of clients without representation.

2013

The New York Times calls New Orleans' fee-based funding mechanism 'perverse.'

Fiftieth anniversary of *Gideon v. Wainwright* marked by US Supreme Court failure to uphold the Right to Counsel in *Louisiana v. Boyer*.

Several multi-defendant cases further expose OPD's lack of adequate resources and threaten justice.

2014

Fines and fees still make up 40% public defense budget in NOLA.


"Unless something drastic happens in the near future, there are tough times ahead for the implementation of justice in New Orleans. Until we establish an adequate, stable and reliable structure of funding, these crises will continue to happen, not just in New Orleans, but across Louisiana."

**- Derwyn Bunton,
Chief Defender
2015**

2015

State budget cuts and decreases in fines & fees by \$1 million leads to OPD's second financial crisis and restriction of services.

82% of all OPP inmates are detained pretrial requiring substantial bond advocacy, medical and mental health advocacy.

A world map with a grey dot grid pattern. Numerous yellow location pins are scattered across the map, with a high concentration in North America. Two grey callout boxes are present: one in the upper right pointing to a pin in California, and another in the middle left pointing to a pin in Hong Kong.

"Learned about this from John Oliver. Good luck to you and thank you for all your great work!"

San Francisco, California

"Good luck from Hong Kong!"

Hong Kong

Doing a

In response to the nearly \$1 million budget slash to the years of chronic underfunding. The Struggle of the globe, eventually raising more than \$8 million in support from HBO's *Last Week Tonight with John Oliver*.

"This [campaign] has to reach the goal for the sake of human decency!"

Roissy-en-France



world of good

shortfall, OPD took the unusual course, launching a public crowdfunding campaign as a temporary answer. The struggle is Now campaign garnered donations and support from people across the country and all corners of the globe, totaling over \$86,000 on the Causevox site and tens of thousands of dollars through the end of the year, and even drew the attention of *John Oliver*.

12



number of countries that donations came in from

\$86,140.22

total amount in dollars of donations generated by the causevox campaign

670

number of donations submitted to the causevox campaign

STAND tall, OPD. We see you, and we're proud of you.

36

number of states in the US that donations came from

\$1-\$5,000

range of individual donations from across the globe



Donations from: Malaysia, Australia, US, Germany, Canada, England, New Zealand, Wales, Netherlands, Switzerland, Hong Kong, France

opdla.causevox.com



\$9,252

19% OF \$50,000 RAISED

DONATE



We're not the only ones who took notice

2015 was an especially prolific year for media coverage. The 10th anniversary of Hurricane Katrina and the impending fiscal crisis garnered attention near and far, including coverage in national outlets such as HBO, MSNBC, BuzzFeed, Al Jazeera America and Tina Peng's op-ed heard round the world in *The Washington Post*.

From The Atlantic

CITYLAB

NAVIGATOR CITYFIXER MAPS PHOTOS

COMMUTE WORK HOUSING WEATHER

The Many, Many Problems With New Orleans' Public Defender System

The city's chief public defender discusses persistent hurdles to adequately defending the poor in court.

BRENTIN MOCK | @brentinmock | Sep 23, 2015 | 7 Comments

VICE

WATCH SECTIONS PHOTOS MAGAZINE TOPICS: VICELAND

Our Right to an Attorney Is in Jeopardy



By Max Rivlin-Nadler



October 4, 2015

The Washington Post

THE **ADVOCATE**

Letters: Orleans Parish needs fully funded public defenders

The Advocate JUL 8, 2015 - 1:29 PM (0)

Opinions

I'm a public defender. It's impossible for me to do a good job representing my clients.



ALJAZEERA AMERICA

U.S.

New Orleans public defenders to judge: Stop assigning us new cases

Defenders ask for judicial relief with 'devastating cutbacks' headed for an already strapped office

November 24, 2015 5:00AM ET

by Della Hasselle



The Times-Picayune Greater New Orleans

BuzzFeedNEWS

Indefensible: The Story Of New Orleans

Before Hurricane Katrina, New Orleans didn't even have a full-time public defender program. The system was overwhelmed and underfunded.

Joseph Allen is lucky he could afford a lawyer to prove his innocence: Emily Maw

cases

2015

7,911
Adult Felonies

9,513 **Adult Misdemeanors**

8
Capital

138
Children in Need of Care

2,690
Revocations

20,260
**in Criminal, Juvenile,
Municipal and Traffic Courts**

caseloads

The American Bar Association recommends no more than

150 felony cases per year

RUSSELL
156
felony & juvenile cases

BRIAN
282
felony cases

RACHEL
469
felony & misdemeanor cases

MAX
1104
misdemeanor cases

The Orleans Public Defenders are facing a million-dollar deficit as a result of statewide budget cuts. For a small office like ours, that's devastating. To avoid layoffs, the entire staff will see the equivalent of four unpaid weeks per year in furloughs, increased caseloads and a hiring freeze – and the submission to the Louisiana Public Defender Board of a plan to cut services to the people of New Orleans. We are already stretched thin: Our office represents 85 percent of the people charged with crimes in Orleans Parish but has an annual budget about a third the size of the district attorney's.

The American Bar Association recommends that **public defenders not work on more than 150 felony cases a year.**

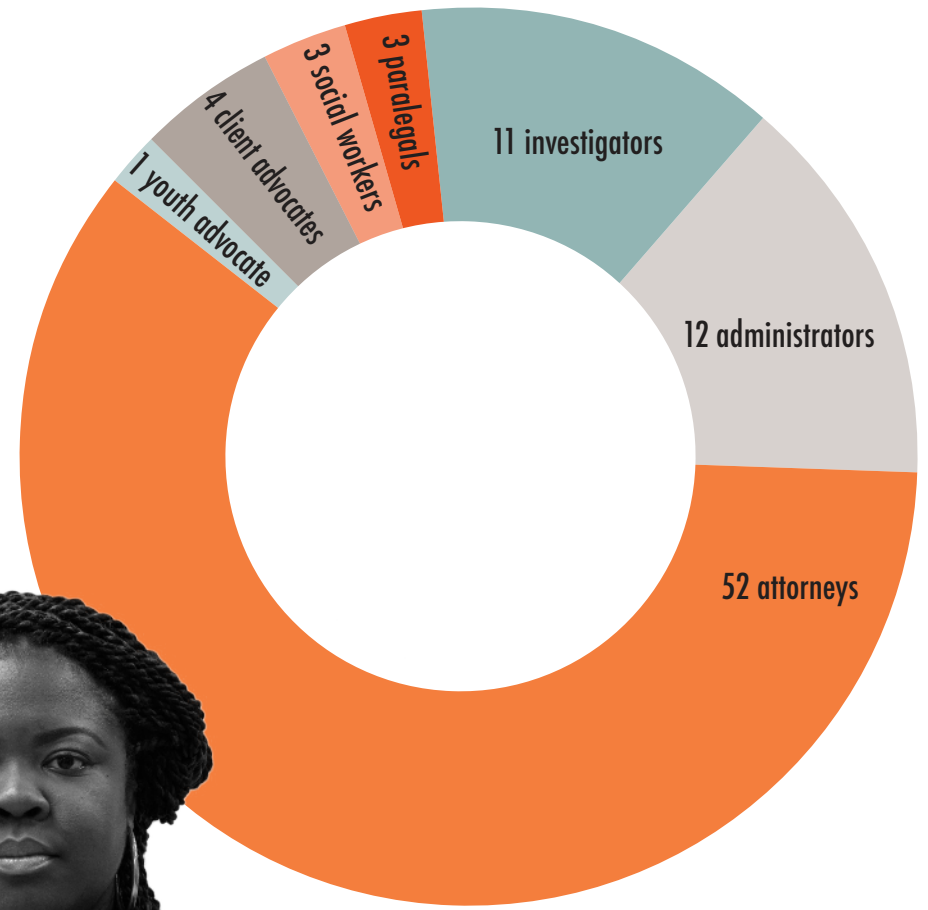
In 2014, I handled double that.

We represent members of our communities who have a right to real and meaningful legal representation, even if they are poor. My clients, like the millions of other people in the United States who are currently represented by public defenders, deserve better.

-excerpt from Tina Peng's *Washington Post* editorial, September 3, 2015

staff

Out-resourced and under-funded, OPD's 86 attorneys, investigators, social workers, advocates and administrators fight tirelessly for New Orleans' most vulnerable and disenfranchised, demanding equal justice every step of the way, both in court and out.



Muni at the Mission

IMPACT: PUBLIC DEFENSE MATTERS

Staff Attorney Lauren Anderson saw too many clients with outstanding warrants for missed court dates and outstanding fines and fees. Many were homeless or facing debilitating addiction and mental health issues and charged with “crimes of homelessness”; all feared incarceration because they weren’t able to pay fines and fees. The backlog of warrants was astounding, the effects vast. Lauren knew she had to do something.

Municipal Court at the Mission was born in the hopes of clearing the nearly 34,000 attachments. A collaboration with Municipal and Traffic Courts, the New Orleans Mission, the City Attorney, the pilot program helped 138 clients and absolved tens of thousands in fines and fees in exchange for community service in just its first two offerings.

By avoiding future jail time, Muni at the Mission saved tax-payer money otherwise wasted on incarcerating low level offenders, connected clients to much-needed services and gave peace of mind that their legal matters were settled.

As one participant stated, “**This is a chance for a brand new start. I am so grateful; I can’t put it into words.**”



“Lauren is one of the best I’ve seen. I’ve not only seen her do great things for me, but she’s done great things for so many people. We need you public defenders.”

**- Client David Young
Muni at the Mission Participant**

darian hunter



Darian Hunter walked into our office, five months after the resolution of his court case, a changed man. Celebrating four months of sobriety after a 25 years struggling against drug and alcohol, he described how his decision to go to court to deal with his outstanding warrants and municipal charges led to this positive shift. “I went in there prepared to turn myself in... I thought they’d take me to jail, and I’d stop being a bother to everyone.”

Like many clients who suffer from a substance abuse problem, Mr. Hunter had racked up multiple charges over the years. However, jail was not in his future thanks to the chance encounter with client advocate Tess Kilbane-Myers and staff attorney Jack Muse. While Jack dealt with his outstanding warrants and Tess worked on finding Mr. Hunter an alternative to incarceration. Knowing Mr. Hunter was unlikely to return, Tess secured his placement immediately in a detox facility. Jack and Tess personally drove him there.



Mr. Hunter spent 10 weeks taking part in inpatient treatment and learning about the disease of addiction. The program’s strong educational approach to recovery appealed to Mr. Hunter, and made him want to learn more about substance use and abuse. He is now hooked on recovery.

Since graduation, he has kept in close touch with Tess and Jack. He finally feels supported and stable after transitioning back to the outside world. He now sings and works, regularly attends AA and NA meetings, and aims to make 30 or 40 years sober. While he acknowledges that life will continue to throw him hurdles, he proudly states that he has no desire to turn to alcohol and drugs anymore. “My goal is to become a substance abuse counselor. I have to make two years, and then go to some school, but I think I could help people through their problems, just like so many helped me.”

impact outside the courtroom

client services division served
635 clients using 818 services



218 number of referrals for social services,
treatment programs, education, housing,
employment and benefits



119
number of direct
medical and mental
health advocacies

458

number of other services including
transportation to/from court/
programs/care; reentry readiness
including food, clothes, IDs

risingfoundations



In 2015, OPD partnered with RisingFoundations, a nonprofit co-founded by OPD staff attorney, Kelly Orians. RisingFoundations aids in the re-entry of formerly incarcerated clients through community economic development, access to affordable housing, and legal services related to workforce development.

One of the frequent needs is to reinstate driver's licenses. Since its inception, 12 clients have had their licenses reinstated, allowing them to pursue job opportunities, access services and further connect with the community.

Terrell Scott was one of the first success stories of the program and the impetus to change the procedures to reissue licenses at the Office of Motor Vehicles. Six months of persistence, countless hours and several job opportunities lost later, Mr. Scott finally has his license and a job. He is rebuilding his life.

Additionally, the small business incubator worked directly with clients to help them start and maintain profitable businesses. From initially supplementing clients' low wage jobs, to assisting in receiving their necessary accreditation, RisingFoundations helps to foster self-sufficiency in clients returning home. Through the incubator, Mr. Scott is now also a proud small business owner.

BERNARD NOBLE

He's serving a 13.3 year prison sentence in Louisiana for two marijuana cigarettes.

Help us get him back to his family.

#BeNobleFreeNoble

Go to www.change.org to find out how you can help.

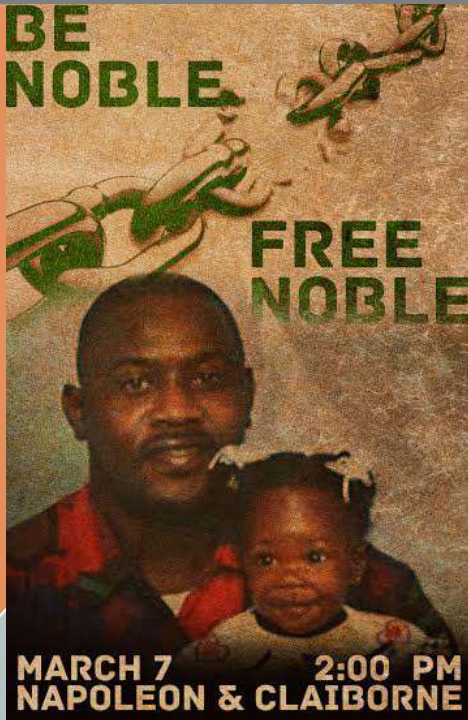
Together with the Drug Policy Alliance, Common Sense NOLA and Louisianans for Responsible Reform, we petitioned Governor Bobby Jindal to grant clemency to Bernard Noble. Community members and activists rallied in New Orleans in March and gathered more than 78,000 signatures for the petition.

Despite his 13-year sentence being deemed “constitutionally excessive” by the trial judge, and a groundswell of support from people across Louisiana, the parole board denied Mr. Noble’s petition in June 2015.

He still waits.

Clemency Campaign

IMPACT: PUBLIC DEFENSE MATTERS





Left: Social Worker Kim Thomas, Attorney Brandi Studer, Client Advocate Molly Thomas, Supervising Social Worker Ginger Parsons, Client Advocates Nate Fennell, Noelle Deltufo, Kareem Kennedy.



Above: LACDL president Brett Brunson, Chief Defender Derwyn Bunton.

Above: Nathan Fennell and New Orleans' District B Communications Director Anna Nguyen.



Above: Comm. Dir. Lindsey Hortenstine, LCEJ John Burkhart, Chief Defender Derwyn Bunton, Chief of Trials Danny Engelberg, Staff Attorneys Lauren Anderson and Will Snowden, Executive Assistant Christine Horn.

Louisiana Association of Criminal Defense Lawyers awarded its most prestigious award – Justice Albert Tate Award – to Chief Defender Derwyn Bunton in recognition of outstanding contributions to the Louisiana criminal justice system.

Supervising Social Worker Ginger Parsons awarded for Excellence in Field Mentorship by the Tulane School of Social Work.

Former Client Advocate Nathan Fennell honored with a proclamation from the New Orleans City Council for his tireless work fighting for the rights of our clients.

Chief Defender Derwyn Bunton named the Vanderbilt School of Law Social Justice Fellow.

Staff Attorney Will Snowden named to the New Leaders Council.

Communications Director Lindsey Hortenstine named Public Relations Society of America Individual of Excellence for the “Struggle is Now” campaign.

Council on Alcohol and Drug Abuse of Greater New Orleans honored the Client Services Division for excellence in drug prevention and significant contributions to the field of substance abuse prevention and positive impacts on the lives of New Orleanians.

National Legal Aid and Defender Association named OPD the Clara Shortridge Foltz Award honoree for outstanding achievement in the provision of services to indigent defendants.

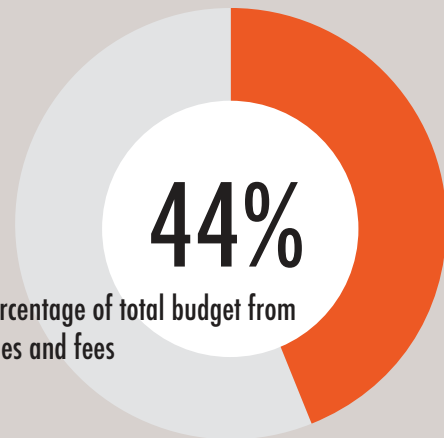
awards and honors

IMPACT: PUBLIC DEFENSE MATTERS

financials

TOTAL EXPENDITURES
\$5,983,100

TOTAL REVENUE
\$6,110,266



percentage of total budget from fines and fees

Fines and fees:
\$2,717,000

State appropriation:
\$1,840,643

City appropriation:
\$1,113,623

Donations:
\$123,000

Grants & fellowships:
\$316,000



CITY OF NEW ORLEANS
Mitchell J. Landrieu, Mayor



GREATER NEW ORLEANS
FOUNDATION
For a vibrant region.



2015 law fellowships & grants:

Yale Law School

Yale Liman

Stanford Law

John Sullivan and Sandra Levick

Gideon's Promise

Americorps

Jesuit Volunteer Corps

Year after year, we rely on grants and fellowships to fill the increasing gap in resources. **2015 even more so.** Many members of our new attorney class were funded by outside fellowships and the vast majority of our client advocates were AmeriCorps and Jesuit Volunteers.

OPD simply wouldn't function without the continued support of our grant funders and donors, including John Sullivan and Sandra Levick, and this year – **YOU! So many of you.** Thank you for ensuring we could continue doing what we do best – fighting for **fairness, justice, dignity** and **humanity**. Justice takes a village.

grants and fellowships

IMPACT: PUBLIC DEFENSE MATTERS

ABA case standards

“We often lose sight of the fact that the average American does not have the financial resources to obtain legal representation and the investigative and other supporting services necessary for an adequate defense. Sadly **Gideon’s promise of equal justice for all regardless of wealth remains unfulfilled after almost half a century.**

“When the underfunding of indigent defense systems result in excessive caseloads so severe that counsel is unable to provide assistance in conducting a “prompt and thorough-going investigation,” the government denies the assistance of counsel to which all defendants are entitled.

“By recognizing that the period from arraignment to trial is a critical stage at which an indigent accused must be provided with meaningful assistance, we take an important first step in **stopping the downward spiral into injustice and begin to restore confidence in the fairness of our criminal justice system.**”*

* Benner, Laurence A. “Eliminating Excessive Public Defender Workloads.” *Criminal Justice*, vol. 26, no. 2, 2011.

Reach out to your representatives in support of OPD and public defense in New Orleans and statewide.

Become a **volunteer**. Sign up for our newsletter to stay abreast of news and action alerts.

Support our community partners. It takes a village to make New Orleans a happy, healthy, successful place for all our citizens, not just the ones financially able.

Donate! Your tax-deductible donation helps fund our indigent defense programs.

What would your donation look like?

An expert witness for a trial, another investigator to help put together a winning case, more social workers to fulfill the goal of helping our clients and their families lead successful lives...

Visit our website (www.opdla.org) and social media for information on OPD, community resources, criminal justice system links and more.

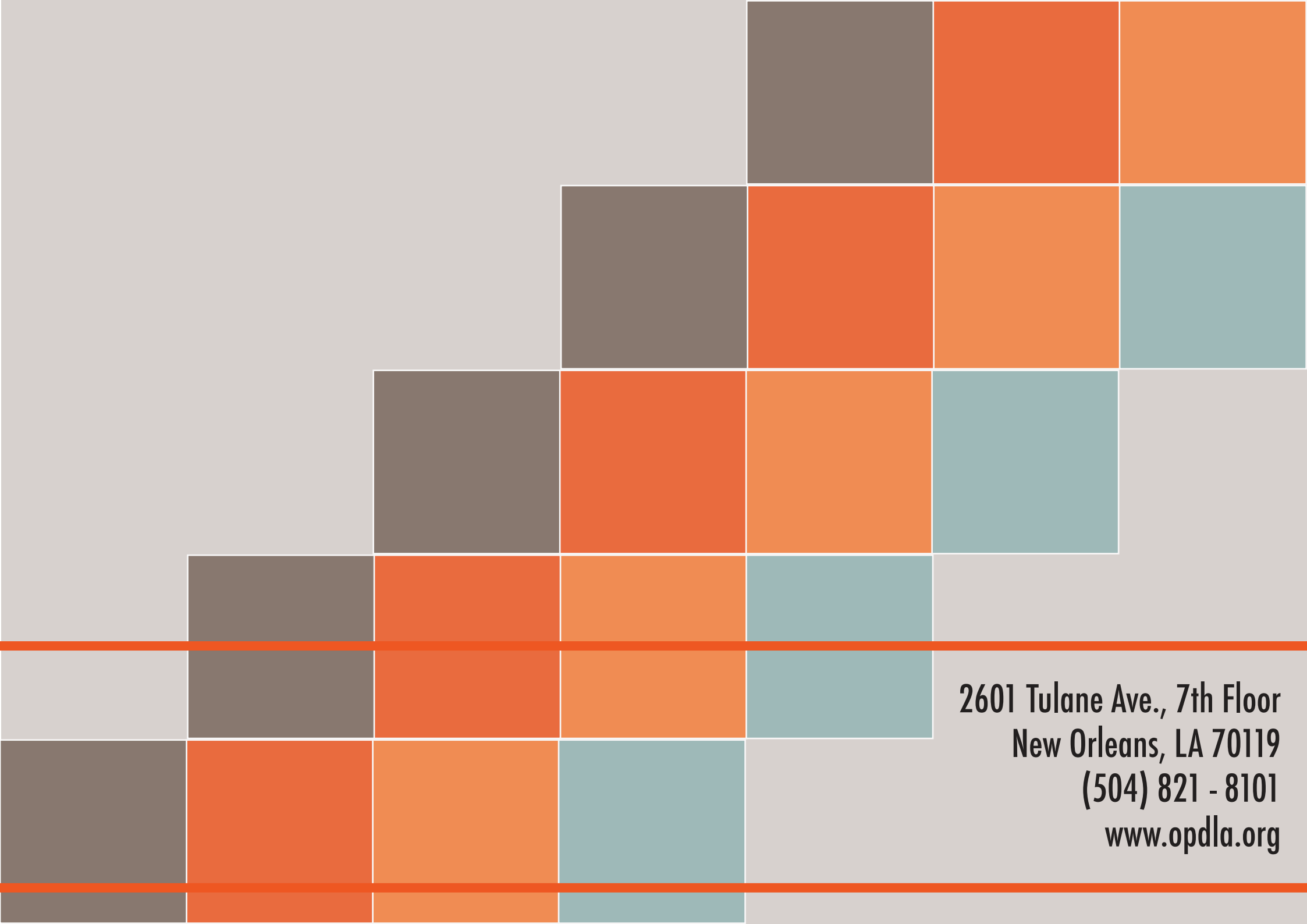


Twitter: @OrleansDefender

Facebook: @OrleansPublicDefenders

how you can help

IMPACT: PUBLIC DEFENSE MATTERS



**2601 Tulane Ave., 7th Floor
New Orleans, LA 70119
(504) 821 - 8101
www.opdla.org**